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Via Email: RPcomments@apa.ny.gov

July 3, 2025

Bart Haralson
Adirondack Park Agency
P.O. Box 99
Ray Brook, NY 12977

**Re: APA Project 2025-0033; Daniel and Marc Christmas
Farr Road, Town of Ohio
Tax Parcel 064.-1-22
Herkimer County**

Dear Mr. Haralson:

Protect the Adirondacks ("PROTECT") appreciates the opportunity to provide comments on the above-referenced project, which involves a seven-lot subdivision of an approximately 86 acre parcel to create seven building lots between 10 and 16 acres in size. A single family dwelling is proposed to be constructed on each lot and each will be served by an on-site sewage disposal system, water supply and access driveway. The project site is designated as Rural Use on the Adirondack Park Land Use and Development Plan Map and contains jurisdictional wetlands and is within the river area of the Black River, a designated Scenic River under the Wild, Scenic and Recreational Rivers System Act. The proposed development is a Class A regional project and requires a permit from the Adirondack Park Agency (APA) pursuant to Adirondack Park Agency Act § 809(2) and 9 NYCRR Parts 577 (Wild, Scenic and Recreational Rivers) and 578 (Freshwater Wetlands).

As discussed below, PROTECT opposes the permitting of the proposed subdivision in its current form because (i) the APA lacks sufficient baseline natural resource data to fully assess the project's environmental impacts, and (ii) the proposed subdivision design fails to incorporate essential conservation design principles appropriate for Rural Use areas.

Protect the Adirondacks

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Natural Resource Concerns

A. Wetlands

According to the applicant's site plan, five of the seven proposed lots include ecologically sensitive wetlands that are protected under New York State law. However, the site plan includes no indication of the date when the wetlands were delineated or the individual who made the delineation, and the plan does not utilize the standard site plan nomenclature for wetland boundaries. Moreover, the application records provided in response to PROTECT's Freedom of Information Law (FOIL) request include no communications indicating that an APA wetlands biologist visited the project site or verified the purported wetland locations and boundaries. We therefore question the accuracy of the wetland locations and boundaries as represented on the site plan.

Furthermore, there is no indication in the records provided pursuant to FOIL that there was any effort made by either the applicant or APA staff to identify vernal pools that may exist on the project sites. Vernal pools that meet specified amphibian breeding criteria are now protected under amendments to the Freshwater Wetlands Act that took effect January 1, 2025. The omission of a vernal pool assessment in this review renders the Agency's natural resource evaluation incomplete and noncompliant with its statutory obligations under the amended law.

B. Scenic River Area

There is no indication in the FOIL records that either the applicant or APA staff evaluated the consistency of the proposed subdivision development with the standards and criteria applicable to projects in a designated Scenic River area. In addition, the site plan does not include a delineation of the 250-foot buffer required for Scenic River areas. *See* 9 NYCRR § 577.6(b)(2). Furthermore, there is no indication that the current applicant is aware of, or that the project and all future owners will comply with, the cutting restrictions applicable in Scenic River areas. *Id.* § 577.6(c).

The Proposed Subdivision Fails to Comply With Conservation Design Principles

Conservation design is a planning approach that seeks to preserve natural features and ecological functions while allowing for environmentally responsible development. The key principles of conservation design include identification and protection of natural resources on a project site such as intact forests, wetlands, steep slopes, wildlife habitat and water bodies; clustering development in less ecologically sensitive areas to minimize environmental impacts and preserve large, contiguous tracts of open space; minimizing impervious surfaces and maintaining natural hydrology; providing buffers around wetlands, streams and other ecologically sensitive areas; and maintaining connectivity for wildlife movement and ecosystem function.

The proposed subdivision—with lots ranging in size from 10 to 12 acres, dispersed over approximately 86 acres of land—does not reflect these principles. Rather than clustering homes and related infrastructure on a condensed portion of the 86 acres and in less sensitive areas to protect ecologically significant areas and preserve large, contiguous tracts of open land, the current design spreads impacts throughout the landscape across the entire 86 acres.

In addition, instead of avoiding development in or near ecologically sensitive areas, the applicant proposes to locate buildings, impervious surfaces, and sewage disposal systems in close proximity to wetlands. PROTECT is concerned that the standard 100-foot wetland setback (9 NYCRR § 578.3(a)) is insufficient to protect these wetlands from potential stormwater pollution, including runoff containing pesticides, herbicides, fertilizers, and other nonpoint-source contaminants typically associated with residential use.

Conservation design is especially critical for lands designated as Rural Use. The APA Act notes that Rural Use areas typically feature shallow soils, relatively severe slopes, significant ecotones, critical wildlife habitats, proximity to scenic vistas or public lands. Executive Law § 805(3)(f)(1). Consequently, development in these areas must be “compatible with the protection of the relatively intolerant natural resources and the preservation of open space.” *Id.* § 805(3)(f)(2).

By dispersing development across an ecologically sensitive site, the current subdivision proposal runs counter to the APA Act’s statutory objective to protect open space and avoid fragmentation in Rural Use areas. The current design also runs afoul of the APA Act’s mandate that “residential development and related development and uses should occur . . . in relatively small clusters” in Rural Use areas. *Id.* § 805(3)(f)(2).

Finally, we note that one of the sites of a proposed dwelling is located directly in the path of an existing trail. The Agency should ascertain the extent of adverse impacts to users (wildlife and human) of that trail as a result of its disruption.

Conclusion

For the reasons outlined above, PROTECT urges the APA to (i) conduct a site inspection during the appropriate seasonal window to determine whether ecologically significant vernal pools are present on the site and to verify and location and boundaries of the wetlands depicted on the project site plan; and (ii) require a redesign of the subdivision to apply conservation design principles—specifically, clustering development away from wetland areas and the Scenic River area and consolidating infrastructure to preserve open space and protect sensitive resources.

On behalf of the Board of Directors of PROTECT, please accept our gratitude for the opportunity to share our comments on this proposed project.

Sincerely,

A handwritten signature in black ink, appearing to read 'Chris Amato', with a stylized flourish at the end.

Christopher Amato
Conservation Director and Counsel